

Plaintiff's Name Edward ANDROSHCHUK
 Prisoner No. C-48718
 Institutional Address SVSP PO Box 1050
Soledad, CA 93960

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 by S. Tomlinson at SVSP
 the Northern District of California.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Edward Androshchuk
 (Enter your full name)

v.

M. Brewer
J. Hurd
A. Cesnares
K. Baliton

(Enter the full name(s) of all defendants in this action)

Case No. 3:23-00094-SK
 (Provided by the clerk upon filing)

COMPLAINT BY A PRISONER
 UNDER THE CIVIL RIGHTS ACT,
 42 U.S.C. § 1983

Jury Trial Demanded

I. Exhaustion of Administrative Remedies.

You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement Salinas Valley State Prison

B. Is there a grievance procedure in this institution? ☒ YES ☐ NO

C. If so, did you present the facts in your complaint for review through the grievance procedure?
☒ YES ☐ NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: to NO Avail

2. First formal level: to NO Avail

3. Second formal level: to no Avail

4. Third formal level: _____

E. Is the last level to which you appealed the highest level of appeal available to you?

☒ YES ☐ NO

F. If you did not present your claim for review through the grievance procedure, explain why.

I Have and Continue to be Refused relief

II. Parties.

A. If there are additional plaintiffs besides you, write their name(s) and present address(es).

NO

B. For each defendant, provide full name, official position and place of employment.

M. Brewer

J. Hurd

A. Cesares

K. Baliton

III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

See Attached Document

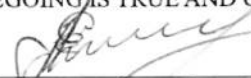
IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

See Attached Documents

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 01.06.2023
Date


Signature of Plaintiff

1 Edward Androshechuk
2 Salinas Valley State Prison
3 P.O. Box 1050
4 Soledad, CA 93960
5
6

7 UNITED STATES OF DISTRICT COURT
8 Northern DISTRICT OF CALIFORNIA
9

10
11 Edward Androshechuk
12 Plaintiff

42 U.S.C. § 1983

13
14 v.

Jury Trial Demanded

15 M. Brewer

16 J. Hurd

et.al.

17 A. Cesares

18 K. Bailifon

Defendant(s)

19
20

21 Plaintiff Edward Androshechuk
22 Alleges:
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24 I. INTRODUCTION
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INTRODUCTION

1
2 1. This is a civil rights action filed by
3 Edward Androschuk, Astate Prisoner, for
4 Damages under 42 U.S.C. § 1983, Alleging
5 Excessive use of Force and denial of medical
6 care in violation of the Eighth Amendment
7 to the United States Constitution and
8 and confinement in segregation in violation
9 of the Due Process Clause of the Fourteenth
10 Amendment to the Constitution. The Plaintiff
11 also alleges the torts of assault and
12 Battery and negligence.
13

14 2. Plaintiff also complains herein about
15 unlawful Retaliation and Reprisal constituting cruel-
16 and unusual Punishment and Due Process, when
17 CDCR violated CDCR own rules and
18 infringing upon Plaintiff right to Access to
19 the Court, thereby rendering administrative
20 remedies unavailable.
21

II Jurisdiction And Venue

22
23 3. This action is Brought Pursuant
24 to 42 U.S.C. 1983 Therefore Jurisdiction
25 is proper under 28 U.S.C. §§ 1331 and
26 1343.
27
28

III PARTIES

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2
3 4. Plaintiff Edward Andrioshchuk is an
4 Older Man From ukraine, And currently be-
5 Detained By (CDCR) California Department
6 Of Correction At Salinas Valley State Pri-
7 Son (SVSP) in Soledad, This Act
8 Of Violation Happened at MCS P
9

10 5. At All time Mentioned in this Complaint
11 Was a Prisoner within the CDCR system.
12

13 6. At All time Mentioned in this Complaint
14 Defendant M. Brewer, was Employed by
15 CDCR and is a Correctional officer
16

17 7. At All time Mentioned in this compl-
18 aint Defendant J. Hurd, was Employed
19 by CDCR and was a correctional officer
20

21 8. At All time mentioned in this complaint
22 Defendant A. Cesares, was Employed by CDCR
23 and was a correctional officer
24

25 9. At All time mentioned in this Complaint
26 Defendant K. Balition, was Employed by CDCR
27 and was a correctional officer
28
29

10 At All Time mentioned in This Complaint
Each Individual Defendant [S] was Acting
under Color of State Law

11 At All time mentioned, All of the
Defendant [S] and Each of them, are Also
Sued in their individual Capacities
For the Claims alleged in This Complaint

12 Plaintiff is informed and believes on on
the Basis of such information and Belief
alleges that each of the Defendant [S]
1- through - 9 is responsible in some
manner For the injuries and Damages
alleged in this Complaint the true Name's
and capacities of said Defendant [S] 1 Through -
9 are presently stated Herein.

13 Plaintiff therefore Sues said Defendant [S]
1- through 9 by such said Names and will
not seek leave to Amend, unless directed by
this Court

IV. FACTS

14 J 8.14.2022 I was Assaulted and Battered
By A Cesaires, J. Hurd, M. Brew and Ki Baliton
specifically A. Cesaires target me for harass-
ment by intentionally searching my cell three times

Facts

1 in one week, cursing at me racial language
2 saying "Fuck you Russian bastards" "you are fucking
3 Caca Roaches" Fuck Putin This is America etc
4 Upon the date in contention I had just returned
5 from prison work assignment and C/O A. Cesares
6 was taken person property out of my cell without
7 cause or reason

8 17. I respectfully asked what is going on in
9 my deep accented tone, and A. Cesares said: I'm
10 tried of you in my building move out or this
11 will continue to happen Fuckin RAT Russian

12 18. I said man why do you keep harrasing
13 me I did nothing to you C/O A. Cesares said
14 I hate fucking Russian.

15 19. I asked to speak with the supervisor/sergeant
16 because I was tired of being harrassed Every
17 other day because these correctional Employee can
18 Abuse their Duty.

19 20. A. Cesares said NO! You Either gonna move out
20 my Building or I'm gonna keep hitting your cell
21 and TAKEN your shift!

22 21. I said I want to talk to the sergeant I
23 have the right to speak with your supervisor
24 I then sat on the bench part of the table and
25 at this point I saw my pet gorbai I was
26 caring for I went to pick it up and A. Cesares
27 Rushed toward me and oc sprayed my pet gorbai
28 Then oc spray me directly to the face without

TALLS

1 Cause.

2 22. I yelled Because of the oc spray that
3 Burnt my eyes I stumbled an fell on the
4 Table when A. cesares oc sprayed me again
5 23 Then He started yelling get Down
6 mutha Fucce stop resisting me.

7 24. I was disabobalated From this Attack
8 I Didnt understand or Do anything which
9 should cause this clo to use force this
10 Extreme against me.

11 25. the alarmed scounded, and another
12 correctional employee arrived T. Hurd while
13 I was oc sprayed and now handcuffed A-
14 cesares told T. Hurd to give me the special
15 Treatment what that meant I didnt know, but
16 I soon Found out what the special treat was.
17 26. T-Hurd Squeezed The hand cuff very very tight
18 into my waist as Him and M. Brewer escorted
19 me out the Building T. Hurd and M. Brewer twist
20 ed and Angled my Arm in position to cause me
21 extreme pain, I was screaming that I have asthma
22 and cant Really breath they laughed and Said
23 Fuck You Stupid mutha Fucka while Pushing my
24 Arms up ward which Bent me over intill I
25 landed on my Face and stomach.

26 27. At this time T. Hurd and M. Brewer Started
27 to Beat me, hit me on and in my Head T-Hurd
28 Did most of the Assault And battery, M. Brewer held

my legs and twisted them in painful ways all while I'm shackled and fully handcuffed 28. then upon information and belief K. Ballington joined in on the assault and battery.

29. I was having difficulty to breathe due to my asthma attack from the pepper spray. I heard voices and felt the blows from these people, but my main focus was to attempt to control my breathing. I was in a lot of pain

30. I kept screaming I need medical help all while the beat me, call me dirty Russian, bitch and laugh at my misery and pain.

31. I didn't know at the time but the beating and battery was being recorded on institutional AVSS which show them beating and hitting me all while handcuffed as I struggle to breathe and asked for help.

32. I finally get to see the doctor/nurse and the correctional officer who just beat me told them I was drunk but, I wasn't my thick accent and the OC spray mixed with SNOT made it hard to speak semi clear.

33. I said I need asthma pump or treatment which was refused to me by what these correctional officer told the nurses

34. I am being deprived all the record and names of the nurses and person who denied

1 me medical Treatment but, my chief
2 issues is the Beaten and illegal attack
3 against my person for no-reason, which
4 is on camera.
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10 Exhaustion of Administrative 11 Remedies:

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13 Plaintiff Exhausted His administrat-
14 ive Remedies And Received a notice
15 Which stated They cannot do
16 any thing Further regarding this
17 issue, Therefore Exhaustion is
18 completed
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Claim For Relief: First claim
Eighth Amendment violation -

Cruel and unusual Punishment
Excessive use of Force

35 The allegations contained in Paragraph's
1-through-42, inclusive are hereby incorporated
by reference.

36 Defendant [S] M. Brewer, J. Hurd, K. Balitar, A. Cesares
IN using Physical Force against the Plaintiff
without need or Provocation, or in Failing to
intervene to prevent the misuse of Force, were
Done maliciously and Sadistically and constituted
Cruel and unusual Punishment in violation of
the Eighth Amendment of the United
States Constitution.

37 the actions of defendant [S] J. Hurd, A. Cesares
IN using Physical Force against the Plaintiff
without need or Provocation constituted the
tort of assault and battery under the law
of California

38 The Failure of Defendant [S] to provide
Medical examination and Treatment of his
Battered Face, Head And Body constitutes the
tort of Negligence under the law of California

1 39 The Force used by Defendants J. Hurd Acesares
2 Mr. Brewer Balton was not used to maintain
3 OR Restore Order But was used maliciously
4 and Sadistically For Purpose to cause harm
5 TO the Plaintiff
6

7 40 Defendant[s] Acted Dispicably knowingly
8 willfully and maliciously or with reckless
9 OR Callous Disrespect, disregard For Plaintiff
10 Federally Protected Rights
11

12 41 As a further Direct and Proximate
13 Result of all the Defendant[s] Actions
14 Herein Asserted Plaintiff suffered Headaches
15 Nerve damage, PTSD, Physical injuries, Emotion-
16 al and Psychological distress
17

18 42 Plaintiff is entitled to an award
19 of Compensatory and Punitive Damages
20 For Injuries Suffered
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SECOND CLAIM FOR RELIEF
VIOLATION OF EIGHTH AMENDMENT -
Deliberate Indifference

43 Plaintiff realleges and incorporate
by reference 1 Through 42 inclusive
and Paragraphs 43 through 49 inclusive of
the first and third claims as it allege
herein

44 Defendant [S] J. hard. M. Brewer Baliton A. ~~Esarres~~
have Denied Plaintiff of his Eighth Amendment
right to be free from cruel and unusual Punishment
in the form of Deliberate Indifference to
Personal safety thus Denying a basic human
right Guaranteed to prisoners by the
United States Constitution

45 The Defendant [S] Had a Duty to Protect
Plaintiff from Substantial risk of serious
Harm, thus Exhibited Deliberate indifference
to Plaintiff right to Personal safety, Defendant-
S acted with a culpable state of mind,
Subjected him to unnecessary and wanton
infliction of Pain And Injuries

46 Defendant [S] acted Dispirably. knowingly
willfully and maliciously or with reckless
or Callous Disrespect disregard For Plaintiff's
Federally Protected Rights

1 47 Specifically Defendant(s) were
2 Deliberate indifference to The plaintiff
3 Personal Safety when The Beat, Assault
4 and Battered Him Intentionally knowingly
5 and maliciously on camera while Plaintiff
6 was Handcuff and restraints therefore
7 Deliberately indifferent to Plaintiff Personal
8 Safety and The Eighth Amendment
9 United state constitution

10 48 As a Further Direct and Proximate
11 Result of all the Defendant(s) Actions
12 Herein Asserted Plaintiff suffered
13 Physical, Emotional And Psychological
14 Injuries
15

16 49 Plaintiff is entitled to an award
17 of Compensatory and Punitive Damages
18 For injuries suffered
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Third Claim For Relief Eighth
Amendment violation - Failure to protect

The Allegations Contained in Paragraphs
50 through 57 inclusive are hereby incorporated
by Reference.

51 Defendant[s] Richard M. Brewk. Baliton A. cesares
violated Plaintiff's right to be free from
Cruel and unusual Punishment guaranteed to
Plaintiff by Eighth Amendment of the
United States Constitution by intentionally
in Manner Described herein and above with
knowledge of the risk of serious harm
that resulted from their Action and
omission of Duty

52 Defendant[s] Conduct violated 42 U.S.C 1983
because that conduct constitutes Failure to
Protect Plaintiff from violence and intimidat-
ion in violation of the Eighth Amendment
right to be free from cruel and unusual
Punishment

53 Defendant[s] Acted Disparably. knowingly
willfully and maliciously or with reckless
or callous disrespect. disregard for Plaintiff's
Federally Protected Rights

1 54 Specifically Defendant's Failure to protect
2 Plaintiff And Subjected Him to unnecessary
3 and wanton infliction of pain, suffering
4 including Psychological distress, in violation
5 of his rights under the Eighth Amendment
6

7 55 As a further Direct and proximate
8 result of all the Defendant [B2] J. Hard. M. Brewer
9 Bailton Actions here in Assailed Plaintiff
10 suffered unwanted beaten, Asthma Attack, Burses
11 Emotional Injuries
12

13 56 Plaintiff is entitled to an award
14 of Compensatory and Punitive Damages
15 For Injuries Suffered
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PRAYER FOR RELIEF

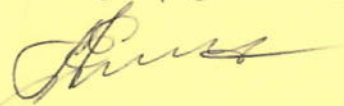
57. WHEREFORE PLAINTIFF EDWARD ANDROSCHUK
PRAYS FOR THE FOLLOWING RELIEF:

1. Compensatory Damages according to Proof,
2. Expunge the Disciplinary conviction Described in this Complaint From Plaintiff Institutional Records
3. Award Compensatory damages in the following amount \$250,000⁰⁰ Jointly and Severally against J. Hurd, A. Cesares, M. Brewer For Causing the Physical Attack, Assault and battery Emotional injuries sustained as a result of their Collective act
4. \$50,000⁰⁰ Jointly and Severally against J. Hurd, A. Cesares, M. Brewer And K. Baliton For refusing to Curd ~~over~~ intervene or stop the battery, Assault, Excessive use of Force and/or Report against one another
5. Punitive Damages according to Proof
6. Costs of the Suit and
7. Such Further Relief as the court Deems proper and equitable
8. Review the camera as Proof For Evidence

VERIFICATION

I, DECLARE UNDER PENALTY
OF PERJURY under laws of
CALIFORNIA THE FOREGOING IS
TRUE AND CORRECT.

Executed at SVSP
in Soledad, CA Sent from
Salinas valley state Prison
on this Date: 01.05.2023

Respectfully submitted
ANDROSCHUK, Edward

in pro-se

CIVIL COMPLAINT